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Technical assistance and capacity-building

Panel discussion on the human rights situation in South Sudan

Report of the United Nations High Commissioner for Human Rights

Summary

The present report is submitted pursuant to resolution 26/31 of the Human Rights Council, and provides a summary of the panel discussion on the human rights situation in South Sudan held by the Council during its twenty-seventh session, on 24 September 2014.

The panel discussion focused on identifying effective measures to improve the human rights situation in South Sudan and to strengthen United Nations support for the work of the African Union Commission of Inquiry on South Sudan and for the Intergovernmental Authority on Development–led peace process.

The report also includes specific recommendations for improving the human rights situation in South Sudan addressed to the parties to the conflict, the Intergovernmental Authority on Development, the United Nations Mission in South Sudan, and the Human Rights Council.

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I. Introduction

1. Pursuant to its resolution 26/31, the Human Rights Council held a panel discussion on the human rights situation in South Sudan, during its twenty-seventh session, on 24 September 2014. The discussion focused on identifying effective measures to improve the human rights situation in South Sudan and to strengthen United Nations support for the work of the African Union Commission of Inquiry on South Sudan and for the Intergovernmental Authority on Development–led peace process.

2. The panel discussion was moderated by the Permanent Representative of Djibouti to the United Nations Office at Geneva, Mohamed Said Doualeh, and was opened by the United Nations Deputy High Commissioner for Human Rights, Flavia Pansieri. The panellists were Paulino Wanawilla Unango, Minister of Justice of South Sudan, Olusegun Obasanjo, Chair of the African Union Commission of Inquiry on South Sudan, Lawrence Korbandy, Chair of the Human Rights Commission of South Sudan, and Ibrahim Wani, Director of the Human Rights Division of the United Nations Mission in South Sudan (UNMISS). Seyoum Mesfin, Chair of the Intergovernmental Authority on Development (IGAD) Mediation Team on South Sudan, had prepared a statement, which was read on his behalf by the Permanent Representative of Ethiopia to the United Nations Office at Geneva.

3. The present report was prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR) pursuant to Human Rights Council resolution 26/31.

II. Statement by the United Nations Deputy High Commissioner for Human Rights and contributions by panellists

4. In her opening statement, the United Nations Deputy High Commissioner for Human Rights noted that the human rights situation in South Sudan continued to be of grave concern, despite a decline in the scale and severity of reported violations of human rights and of international humanitarian law compared to the first months of the conflict. The Deputy High Commissioner referred to the visit to South Sudan by the United Nations High Commissioner for Human Rights, Navi Pillay, in April 2014, which had taken place against the background of a critical level of violence, including ethnically motivated mass slaughter and gruesome revenge killings. The Deputy High Commissioner noted that civilians continued to bear the brunt of the ongoing armed conflict, with continued reports of killings and wounding of civilians by all parties to the conflict as well as by other armed groups, and serious violations of the rights of children and women. She stressed that the number of internally displaced persons had continued to rise, and drew attention to the vast influx of civilians into UNMISS compounds, which presented UNMISS with unprecedented challenges.

5. The Deputy High Commissioner expressed concern that the Government and the Sudan People's Liberation Movement/Army in Opposition continued to mobilize forces and amass weapons in an effort to consolidate their respective power bases — and to undermine the protection of civilians and the life-saving work of humanitarian agencies and UNMISS. She also noted that the humanitarian situation had deteriorated rapidly, with the country experiencing extreme food insecurity and facing a possible famine.

6. The Deputy High Commissioner further noted that the conflict had exacerbated the already weak system of administration of justice, and that there had been arbitrary arrests, incidents of prolonged detention and allegations of torture and ill-treatment in custody. A

steep deterioration had also been observed in the exercise of freedom of expression, including, in particular, freedom of the press and access to information.

7. The Deputy High Commissioner emphasized the need to step up efforts to protect civilians and to ensure accountability for crimes and human rights violations committed in the course of the conflict. She noted that a legacy of human rights violations committed in the past had contributed to the current crisis. In that regard, she urged the international community to put pressure on the country's leaders to prevent further violations and abuses by forces under their command and control, and to make clear that anyone committing crimes and human rights violations and abuses would be held accountable.

8. The Minister of Justice of South Sudan stated that the events in Juba on 15 December 2013 had amounted to an attempted coup by the former Vice-President Riek Machar and his supporters to overthrow an elected government. He stressed that what had happened on that fateful day had not been an ethnic feud or struggle, but the result of a political disagreement among politicians from different ethnic backgrounds.

9. The Minister briefed the Council on measures taken by the Government to maintain calm and stability in the country, mentioning, inter alia, the establishment of a crisis management committee, a peace, reconciliation and healing committee, and an investigation committee into human rights violations and abuses committed in the course of the conflict. He noted that the Government had regained control of areas previously under the control of rebels in the States of Jonglei, Unity, and Upper Nile. The Minister stated that the Government had accepted the cessation of hostilities and peace negotiated under IGAD auspices, and had welcomed the Commission of Inquiry formed by the African Commission on Human and Peoples' Rights, under the African Union, to investigate human rights abuses in South Sudan. He also referred to a communiqué, signed by the Government, providing for direct negotiations between the Government and the Sudan People's Liberation Movement/Army in Opposition. He noted that the Popular Committee for Peacebuilding, established by the Government, had succeeded in persuading many internally displaced persons in the UNMISS compounds to return to their homes.

10. The Minister referred to several positive developments in the country, such as the Government's endorsement of a human rights agenda prepared by the Human Rights Commission of South Sudan, and the passage of media laws by the national legislature. He acknowledged that the Government bore the primary responsibility for protecting civilians, and stressed that the promotion of peace, reconciliation and healing among South Sudanese remained the Government's major priority.

11. The Chair of the African Union Commission of Inquiry on South Sudan commended the African Union on having established the Commission. He explained that the Commission had been entrusted with helping to bring about a united and cohesive South Sudan via its mandate of healing, reconciliation, accountability and institutional reform. He mentioned that the commissioners had visited Juba and other areas in the region to assess the extent of the conflict and the human rights violations committed. They had met with government officials, the leaders of the Sudan People's Liberation Movement/Army in Opposition, regional leaders in Ethiopia, Kenya, the Sudan and Uganda, and representatives of civil society and international organizations. They had also visited camps for internally displaced persons within South Sudan and camps for refugees in neighbouring countries. The Chair of the Commission stated that, although the conflict had started as a political dispute within the ruling Sudan People's Liberation Army, it had quickly degenerated into an ethnic conflict that had resulted in deep division and mistrust between the two major ethnic groups, the Dinka and the Nuer. He stressed that gross violations of human rights had been committed, and that no political leader in South Sudan could claim innocence. He underlined that the cycle of impunity had to stop in order for healing to take place. He also

noted that some form of restitution was necessary at the community level, and expressed the hope that the work of IGAD would contribute to the healing and reconciliation process.

12. Speaking on behalf of the Chair of the IGAD Mediation Team on South Sudan, the Permanent Representative of Ethiopia stated that IGAD continued to stress the principles of the rule of law and human rights as the cornerstones of the peace process. He noted that IGAD continued to urge the parties to the conflict to comply with the agreements negotiated and to fulfil their obligations under national and international law, stressing that IGAD would not hesitate to take action against those who would obstruct the peace process, and hold them accountable. He acknowledged that the IGAD-led talks continued to face challenges, as fighting had continued and the parties had failed to abide by the Cessation of Hostilities Agreement signed in January 2014. He noted that, since the outbreak of the conflict, millions of lives had been put at risk, education and health services had been interrupted, and the humanitarian situation had become dire. He stressed that IGAD was aware of the acute need for a comprehensive agreement that would address the root causes of the crisis and create conditions for genuine and far-reaching reforms.

13. The Chair of the Human Rights Commission of South Sudan stated that the report of the United Nations High Commissioner for Human Rights provided a detailed account of the magnitude of the human rights abuses and violations committed in the course of the conflict, which could not be ignored. He noted that the findings of the report underscored the need for accountability and for mechanisms for truth-telling and reparation.

14. He explained that the Human Rights Commission had a constitutional mandate to promote human rights, to monitor and report on the human rights situation in the country, and to make recommendations and advise the Government. The Commission had organized a national human rights forum in 2012, which had raised awareness of human rights throughout the country. The Chair referred to a report published by the Commission in July 2014, which revealed that over 10,000 people had lost their lives since the beginning of the conflict. He highlighted some of the major human rights challenges in South Sudan, which included protection of the right to life, the prevailing ethnic tensions between the Dinka and Nuer populations, and the deteriorating environment for the exercise of the right to freedom of expression.

15. The Chair of the Human Rights Commission of South Sudan urged the parties to the conflict to respect and implement the Cessation of Hostilities Agreement signed in January 2014. He also called on the United Nations to expedite the deployment of IGAD monitors and United Nations peacekeepers, and to support UNMISS and regional bodies for the monitoring of human rights violations and abuses.

16. The Director of the Human Rights Division of UNMISS noted that the situation in South Sudan warranted the close attention of the Human Rights Council, and he commended the Council for holding the panel discussion. He stated that UNMISS was closely monitoring the human rights situation and had documented numerous incidents of deliberate targeting of civilians; gender-based violence, including rape; arbitrary arrest and detention; torture; forced disappearance; looting; and attacks on hospitals, churches and mosques. UNMISS reports had confirmed that ethnically targeted killings and inter-clan murders were common occurrences. He noted that freedom of expression had been severely curtailed, with repeated attacks on journalists and civil society organizations. He also stressed that the targeted killings of humanitarian workers had further impeded the provision of humanitarian support to civilians.

17. The Director of the Human Rights Division of UNMISS said that there were strong reasons to believe that crimes against humanity had been committed, in light of the widespread and systematic nature of the violence, and that such acts had been committed by both parties to the conflict. He noted that in spite of pledges by both sides to hold

accountable those responsible for the crimes, there had been little or no progress towards ensuring accountability. He stressed that accountability would be crucial to achieving national reconciliation, and that UNMISS had recommended the immediate establishment of an international tribunal to establish responsibility for the crimes and serious human rights violations and abuses committed in the course of the conflict. He called on the Human Rights Council to act immediately and decisively to help bring about an effective and comprehensive solution to the South Sudan crisis.

III. Summary of interventions at the plenary discussion

18. During the plenary discussion, the following delegations took the floor: Australia, Belgium, Canada, China, Cuba, the Czech Republic, Denmark, Estonia, Ethiopia on behalf of the African Group, the European Union, France, Italy, Kuwait, Montenegro, the Netherlands, Norway, the Russian Federation, Spain, Sri Lanka, Sudan, Togo, Turkey, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The following non-governmental organizations contributed to the discussion: Caritas Internationalis, CIVICUS World Alliance for Citizen Participation, the East and Horn of Africa Human Rights Defenders Project, Femmes Africa Solidarité and the Norwegian Refugee Council.

19. Many delegations noted with concern that fighting had been persisting for many months and that serious human rights abuses and violations, and violations of international humanitarian law, continued to be committed by both parties to the conflict. They condemned the violations and atrocities against civilians, noting that some may amount to war crimes or crimes against humanity. They also called on the parties to the conflict to immediately cease fighting and all forms of violence, and appealed to the leaders concerned to ensure that their forces would not commit human rights abuses or violations of international humanitarian law or other international crimes.

20. Many delegations denounced the lack of accountability for the crimes and atrocities committed in the course of the conflict. They underlined the importance of justice and accountability as a basis for achieving any meaningful healing and national reconciliation in South Sudan. They urged both parties to the conflict to ensure that perpetrators of human rights violations and abuses were brought to justice and held accountable. They all stressed that justice and accountability should be a vital part of the peace process.

21. Several delegations expressed grave concern regarding the lack of protection of civilians, particularly of vulnerable groups such as women and children, who continued to bear the brunt of the conflict and were experiencing deteriorating living conditions. Specifically, some delegations expressed deep concern about the grave violations committed against women and children, including incidents of sexual and gender-based violence, and the systematic recruitment of children into armed forces.

22. Many delegations stressed the need for a comprehensive political solution to the conflict, and urged the parties to commit themselves to an inclusive, constructive and open dialogue to achieve peace. They expressed concern about the leaders' lack of political will for a peaceful resolution, as illustrated by their failure to abide by the ceasefire agreements signed under the auspices of IGAD. Many delegations commended IGAD for its work in leading the peace process in South Sudan and called on the international community to give IGAD its full support.

23. Many delegations strongly urged the parties to facilitate access to humanitarian aid in territories under their control and to ensure the protection of humanitarian aid workers. Several delegations expressed concern about the severity of the humanitarian crisis,

particularly with regard to food insecurity, and about the acute protection challenges faced by internally displaced persons.

24. Some delegations expressed concern about the deteriorating environment for the exercise of freedom of expression, which included widespread intimidation and harassment of human rights defenders and journalists. Several delegations also noted the atmosphere of fear and repression against civil society organizations, which had prevented their participation in IGAD-led peace talks in Addis Ababa.

25. Several delegations welcomed the role of the African Union Commission of Inquiry on South Sudan in investigating the human rights violations and abuses and encouraged the Commission to make recommendations on the best way to ensure accountability. They called on the Human Rights Council, other United Nations bodies, specialized agencies and other stakeholders to support the work of the African Union and other regional mechanisms in regard to South Sudan.

26. Several delegations called for the creation of a special procedures mandate to monitor and report to the Human Rights Council on the human rights situation in South Sudan.

IV. Conclusion

27. The panellists made concluding remarks in response to some of the comments and questions from the plenary discussion. The Chair of the African Union Commission of Inquiry on South Sudan stated that the Commission's report would be completed and submitted to the African Union in the first half of October 2014. He indicated that the Commission would accept support from all those willing to assist with the implementation of its findings and recommendations.

28. The Minister of Justice of South Sudan stated that, in regard to freedom of expression, a media law had been adopted, as a legitimate instrument in conformity with international law. He also mentioned that the National Assembly would pass a national security law in due course.

29. In his concluding remarks, the Chair of the Human Rights Commission of South Sudan mentioned that the Commission supported the task assigned to regional institutions of monitoring the human rights situation in South Sudan. He stressed that any accountability mechanism adopted in a future peace agreement should be negotiated in such a way as to ensure the parties' commitment and better implementation. He warned that the peace process should not be rushed, so as to ensure that it would be comprehensive and thorough and would involve all relevant stakeholders.

30. The Director of the Human Rights Division of UNMISS assured the Human Rights Council that the Mission was committed to fulfilling its mandate to monitor the human rights situation in South Sudan with the highest standards of verification. He stressed that the promotion and protection of human rights was an international obligation which required the engagement of regional and international mechanisms. In that regard, he underlined the importance of the Human Rights Council's responsibility to continue playing its role for improvement of the human rights situation in South Sudan.

V. Recommendations

31. **The High Commissioner reiterated the following recommendations in her report presented for the panel discussion.**

32. **To the Government of South Sudan:**

(a) Immediately cease fighting and all forms of violence, and refrain from committing human rights violations, violations of international humanitarian law and other international crimes;

(b) Comply with all agreements signed under the auspices of IGAD, including the Cessation of Hostilities Agreement (January 2014) and the Agreement to Resolve the Crisis in South Sudan (9 May 2014), and fully commit to the Addis Ababa negotiation process, including allowing the deployment and strengthening of the IGAD Monitoring and Verification Mechanism across all conflict-affected areas;

(c) Ensure prompt, credible, transparent, independent, impartial and comprehensive investigations into allegations of violations of international humanitarian and human rights law, including alleged international crimes committed in Juba in the initial stages of the conflict in mid-December 2013 and the April 2014 attacks on civilians in Bentiu and Bor; and ensure accountability for such violations, in accordance with international standards, and provide adequate remedies and redress for the victims;

(d) Cease activities impeding the right to freedom of expression, including the harassment and censorship of the media and civil society, summoning and detention of journalists, and issuing of orders regarding suspension of publications and seizure of newspapers.

33. **To the Sudan People's Liberation Movement/Army in Opposition and other armed actors:**

(a) Immediately cease fighting and all forms of violence, and ensure that its forces do not commit human rights abuses or violations of international humanitarian law or other international crimes;

(b) Comply with all agreements signed under the auspices of IGAD, including the Cessation of Hostilities Agreement (January 2014) and the Agreement to Resolve the Crisis in South Sudan (9 May 2014), and fully commit to the Addis Ababa negotiation process including allowing the deployment and strengthening of the IGAD Monitoring and Verification Mechanism in areas under their control;

(c) Commit to abide by international humanitarian law, including by desisting from attacks on civilians, civilian objects and humanitarian facilities; ceasing indiscriminate and disproportionate attacks; and ensuring the facilitation of humanitarian access to territories under their control;

(d) Facilitate the conduct of prompt investigations into allegations of serious violations of international humanitarian law and human rights abuses committed by commanders, combatants and affiliated militia forces, including the unlawful killings of civilians in Bentiu in mid-April 2014.

34. **To IGAD:**

(a) Expedite the mediation process and ensure that it takes into consideration the interests and viewpoints of all stakeholders, including those of

civil society, particularly the rights and needs of the victims of human rights violations and abuses, of violations of international humanitarian law, and of other international crimes;

(b) Ensure that any final peace agreement includes a commitment to address past violations, combat impunity and ensure accountability, in accordance with international standards; to promote and protect human rights; and to preclude amnesties for alleged perpetrators of international crimes and human rights violations.

35. **To the African Union Commission of Inquiry on South Sudan:**

Expedite its work in the fulfilment of its mandate to investigate the human rights violations and other abuses committed during the armed conflict in South Sudan, and make recommendations on the best ways and means to ensure accountability, reconciliation and healing among all communities in South Sudan; in doing so, pay particular attention to the impact of the conflict on women, children and other vulnerable groups.

36. **To UNMISS:**

(a) Under the parameters of its refocused mandate, ensure the effective protection of civilians under threat of physical violence, and deter violence through regular and proactive patrols within its areas of deployment, with specific attention to women, children and other vulnerable groups;

(b) Ensure regular and timely public reporting of the human rights situation in South Sudan, in line with Security Council resolution 2155.

37. **In addition to the above recommendations, the following recommendation was made by several delegations during the plenary discussion.**

38. **To the Human Rights Council:**

Consider the creation of a special procedures mandate in the form of a special rapporteur to monitor and report to the Human Rights Council on the human rights situation in South Sudan.